



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER	
FRIED	
ART UNIT	PAPER NUMBER
121	11

DATE MAILED: 02/03/87

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- ☐ is extended to run _____ from the date of the Final Rejection
- ☒ continues to run 3 months from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

- ☒ Appellant's response to the final rejection, filed 1/27/87, has been considered with the following affect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - ☐ They raise the issue of new matter. (See Note).
 - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing of an appeal, the proposed amendment ☒ will be ☐ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: none

Claims objected to: _____

Claims rejected: _____

However:

- ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
 - ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.
4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other

see attached sheet

Serial No. 748591

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Art Unit 121

The rejection of claims 1-19, 21, 22 and 24-27 under 35 USC 103 over the art of record stands for the following reason:

The comparison is not commensurate with the scope of the claimed subject matter. Note that vast number of the art compounds are specifically disclosed in Rainer I and II. For example R³ being ethoxy, R¹ being various fluoro substituted C₁₋₃ alkyl, chlorodifluoromethyl, R⁴ being C₁₋₃ alkyl, R¹ R^{1'} together being ethylenedioxy, methylenedioxy and the like. The evidence must establish that the compounds within the claims all have the unexpected property. In re Greenfield. 197 USPQ 227.

The rejection of claims 1-19, 21, 22 and 24-27 under obvious-type double patenting over the art of record stands for the same reason stated above.

7 The double patenting rejection of claims 1-19, 21-22 and 24-27 over SN 794230 has been withdrawn.

Claim 23 has been withdrawn from consideration.

The examiner regrets the error made in p. 4 of the last office action. The restriction is proper since the sub-combination has other utility such as insecticides. Note UK patent 1,234,058.

This is not an invitation to rectify the deficiency of the affidavit in this application because the prosecution is closed in this case.

NO
should
be
corrected

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Art Unit 121

THE PERIOD FOR RESPONSE CONTINUES TO RUN THREE MONTHS FROM THE DATE OF THE FINAL REJECTION. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee.

FAN:wdh

A/C 703 557-1456

1/30/87

Jane T. Fan
JANE T. FAN
PRIMARY EXAMINER
ART UNIT 121